# REVIEWS.

*Constitutional Law of England.* By Edward Wavell Ridges, of Lincoln's Inn, Barrister at Law. Stevens & Sons, Limited, London, 1905. Pages, xxxii, 459.

The phrase, "constitutional law of England," is used by Mr. Ridges to denote that law for all the British dominions. The justification of the work is, indeed, in great part, the changes which have occurred during the last forty years in British colonial policy, such as the creation of the Dominion of Canada in 1867; the assumption in 1876 of the imperial title as respects India; the federation of most of Australasia in 1900, and the addition, in 1901, to the royal title by reference to "the British Dominions beyond the Seas."

The volume is less a discussion of British constitutional law than an explanation of the various agencies through which the British people and possessions have from time to time been governed. It is mainly of the nature of an enlarged title of the Statesman's Year Book. The author is not one of those who seek, as their main goal, *rerum cognoscere causas.* Brief consideration is given to the forces out of which the fundamental laws and institutions of England have in slow course been evolved.

It would, however, be unfair to judge the success of Mr. Ridges in treating his subject by the tests to be applied to a work on American constitutional law. Here it is a head of law, definite in form, standing by itself, and outranking every other at every point. For England, it is indefinite in form, part and parcel of the whole national life, and subject at any point and any time to parliamentary control.

The author (p. 3) classes with laws affecting the distribution or exercise of the sovereign power, that are observed and enforced by the courts (which he names Constitutional Law proper), the opinions of the law officers of the crown on questions put to th em by the ministers or government departments. While the official position of the attorney general and solicitor general of England has been greatly dignified since 1895 by their exclusion from private professional practice it seems going very far to say that their opinions are absolutely binding upon the courts. The judiciary is no doubt obliged to follow the decisions of the executive dedartt ment with respect to matters of public foreign relations. Buthose decisions are ultimately the act of the Crown, and derive their force from that. The official opinion will probably be followed, but it may not be.* An opinion, however, on a matter of private right, although adopted and acted on by the government, could hardly tie the hands of a court to which an individual injured by the course taken might appeal for relief.

* See Jones v. United States, 137 U. S. Reports, 202.

Attention is called (p. 14) to an interesting proof in recent practice of the principle that laws must be shaped to social conditions rather than social conditions to laws. Great Britain has, of late, applied it in a large way to her colonial system. The erection of the Dominion of Canada was a measure reflecting English sentiment. It created a strong central government. It made it strong by leaving its powers largely undefined, while those of the associated provinces were laid down in terms. Thirty years later Australian confederation came in deference to colonial sentiment. It created a central government relatively contracted in its scope, and with limits strictly prescribed. The local legislatures, however, were left as before without an endeavor to define their powers.

Mr. Ridges is no believer in the American theory of placing the judiciary above the legislator by conceding to it the power to declare a statute void because unconstitutional. He views it as an inherent weakness in our political system (p. 15), in its introduction of an element of "legalism and rigidity." The omnipotence of parliament is to him the assurance of its perpetual vitality.

It is interesting to an American to observe how fully Mr. Ridges acknowledges (p. 49) the justice of the demand for no taxation without representation which brought on the Revolutionary War. He rests it on *Magna Charta*, but with a reservation as respects possessions where the population is mainly aboriginal and unfitted to participate in the work of government.

One of the most valuable parts of the book is the discussion (p. 393, Appendix A) of the remedies by way of appeal or proceedings in error in criminal cases. What scanty opportunities there are in case of an unjust conviction are clearly indicated. To supply the want of them it seems that five thousand applications for a pardon are annually presented to the home secretary. In this connection, the story of the Beck case is told in some detail (p. 417.) Beck was convicted in 1896 on a serious charge in consequence of the erroneous exclusion of certain evidence, and was imprisoned at hard labor for five years. This led to a second charge and a second conviction in 1904. The home secretary afterwards became convinced that he was an innocent man and pardoned him, but his life was ruined.

The author seems to share in the general incapacity of foreigners to understand the difference between the authority exercised by the State and by the United States. Having found one constitutional provision that, if vacancies happen in the Senate when the legislature of any State is not in session, "the Executive thereof" may fill it temporarily, and another investing the President with the executive power, he proceeds to inform his readers (p. 17) that the President is empowered to fill vacancies in the Senate.

The volume is marred by an occasional slip of the proof reader. In one place (p. 13), "accept" has been obviously substituted for "except"; in another (p. 166), the serious error occurs of giving

1871, instead of 1781, as the date of the practical abolition by the Act of 28, Geo. III., of the Board of Trade and Plantations, which, up to that time, had wielded so important power over the American colonies, and in a third (p. 336), the Act of Union (of 1800) between Great Britain and Ireland is stated to have gone into effect on January 1, 1901.

As a convenient manual to show in orderly arrangement and historic progression the distribution of governmental power throughout the British dominions and the mode of its administration, the book has a place which it fills fairly well, but it bears little mark of original thought or investigation and hardly rises to the level of its title. It is handsomely printed and quite well indexed. *Simeon E. Baldwin.*

*Lawson on Contracts.* Second edition. By John D. Lawson, LL.D., Dean of the Department of Law and Professor of Contracts and International Law in the University of Missouri. The F. H. Thompson Law Book Company, St. Louis. Sheep, pages xxi, 688.

Not to re-open the classic controversy as to the respective merits of the text-book and case systems in teaching law, we would submit as worthy of attention the method now pursued at Yale in the first-year course in contracts, and to suggest the book under discussion as a valuable adjunct to systems of a like nature. The method is the use of a text-book, supplemented by cases, or rather, perhaps, of cases introduced by a text-book. Now there are surprisingly few works which qualify as the introductory text-book in such a course. So to qualify, it is necessary that the book be brief, but not so brief as to necessitate uncomprehending, and, therefore, merely mechanical, memorizing. It should imply practically no legal knowledge to the student; consequently, it should be as free as possible from unexplained technical terms. It should make the relative importance to be accorded to the various principles plain by emphasis of position and space. Of all the writings on contracts scarcely any satisfy these requirements. "Lawson on contracts" is an exception. We should be doubtful, however, of the ability of the average student to attain a thorough knowledge of contracts from the use of a text-book of this nature, unaided by cases. Those very points, wherein its superiority as a preliminary text-book lies, militate against it as a means to thorough and complete knowledge. But as an introduction to the case method it is admirable.

Few, except those who have studied it in the schools, are familiar with the first edition of this work. Its elementary nature naturally precludes it from being among the citations used by judges. To these few, however, the second edition is recommended as a vast improvement upon the first. The more important subjects, such as Agreement, are given much more space, and the exceptions and digressions are curtailed. Not the least noticeable point of contrast between the two editions is the change—much